

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-218440

DATE: May 24, 1985

MATTER OF: Emery Worldwide ~~ADVOCATES~~

DIGEST:

Where the initial protest is untimely filed with the contracting agency (more than 10 working days after basis of protest is known), subsequent protest to GAO will not be considered even though it was filed within 10 working days of the agency denial of the protester's initial protest.

Emery Worldwide (Emery) protests the amendment of invitation for bids (IFB) N62742-85-B-0506, issued by the Naval Facilities Engineering Command.

We dismiss the protest as untimely.

Bid opening was on March 4, 1985. It was subsequently determined by the procuring activity that it had overstated its requirements for the shipment of packages in weight categories between 20 and 50 pounds. On March 8, 1985, Emery was advised that new bids would be taken because of these revised specifications. Emery protested to the Navy on March 25, 1985. The Navy denied Emery's protest by letter dated March 26, 1985. Emery filed its protest with GAO on March 29, 1985.

Our Bid Protest Regulations require that protests be received in our Office or the contracting agency within 10 working days after the basis of the protest is known. 4 C.F.R. § 21.2(a)(2) (1985).

A protest initially filed with the contracting agency and subsequently filed with our Office within 10 days of the protester's notification of the initial adverse agency action will be considered only if the initial protest to the agency was filed within the time limits set forth in 4 C.F.R. § 21.2(a) (1985). See Dakota Woodworks, B-217047, Feb. 27, 1985, 64 Comp. Gen. _____, 85-1 C.P.D. ¶ 248.

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Although Emery's protest to our Office was filed within 10 working days of the Navy's denial of its protest, Emery's initial protest was not filed with the Navy within the time limits outlined above, a prerequisite to our consideration for the protest before us. Emery was notified on March 8, 1985, that new bids would be solicited for reduced requirements and Emery did not protest to the Navy until March 25, 1985, more than 10 working days after Emery learned of the basis of its protest.

For *Ronald Berger*
Robert M. Strong
Deputy Associate General Counsel